

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14224 of Michele J. Brace, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against permitting an addition to a structure now exceeding the lot occupancy requirements (Paragraph 7105.12) to construct a partial third story rear addition to a single family row dwelling in an R-5-B District at premises 2133 Newport Place, N.W., (Square 69, Lot 187).

HEARING DATE: January 16, 1985

DECISION DATE: January 16, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of Newport Place, between 21st and 22nd Streets and is known as premises 2133 Newport Place, N.W. It is zoned R-5-B.

2. The subject lot is rectangular in shape and contains 1,403.28 square feet of lot area. The lot has a frontage of 23.39 feet along Newport Place and a depth of sixty feet. The rear of the lot abuts a ten foot wide public alley.

3. The subject site is presently improved with a two-story brick structure which was built in approximately 1902. The structure has been used in the past as a rooming house for up to four families. The proposed use is as a single family dwelling.

4. The existing structure is nonconforming with regard to lot occupancy. The Zoning Regulations for the R-5-B District provide for a maximum lot occupancy of sixty percent or 941.97 square feet for the subject lot. The existing structure occupies 1,307.62 square feet of the lot.

5. The applicant proposes to construct a partial third story addition to the existing dwelling.

6. Paragraph 7105.12 of the Zoning Regulations provides that enlargements or additions may be made to a nonconforming structure provided such structure is conforming as to percentage of lot occupancy and further provided that the addition or enlargement does not increase or extend any existing nonconforming aspect of the structure or create any new nonconformity of the structure and addition

combined. A variance from that provision is, therefore, required for any addition to the existing structure.

7. The proposed addition will contain space for storage, mechanical equipment and an elevator shaft. A solar energy collection and storage unit is planned for the future.

8. The applicant testified that the proposed addition will allow for the reconfiguration of the interior of the dwelling to provide adequate space for entertaining and additional bedroom and bath facilities for elderly parents.

9. The proposed addition, due to its location on the roof of the existing structure, will not increase the existing lot occupancy.

10. The existing structure with the proposed addition is conforming as to height, floor area ratio, and use.

11. The proposed addition will not adversely impact neighboring properties. As evidenced by the "line of sight" drawing marked as Exhibit No. 19B of the record, the addition will not be visible from street level on Newport Place. The properties north of the public alley are at a higher elevation than the subject site and are further buffered by existing trees.

12. Two neighboring property owners appeared at the public hearing in support of the application. The owner of the property immediately adjacent to the subject site testified that the proposed addition will not be noticeable from the street and that she supported the applicant. A petition in support of the application containing seventeen signatures of residents of the 2100 block of Newport Place was submitted at the public hearing.

13. The owner of 1312 21st Street, N.W., appeared at the public hearing in opposition to the application. The opposition testified that the proposed addition would cut off light and air to the narrow public alley at the rear of the site and the rear yards of dwellings located to the north of the public alley facing on O Street.

14. The Board finds that the testimony of the opposition is not persuasive. The residences facing on O Street are separated from the subject site by the existing alley and further by existing rear yards. In addition, the applicant has indicated, and the opposition concurred, that the elevation between the subject site and the rear yards of the dwelling on O Street differs by approximately five feet. Existing trees would further buffer any impact from the proposed addition.

15. Advisory Neighborhood Commission 2B made no recommendation on the subject application.

CONCLUSION OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty upon the owner arising out of some extraordinary or exceptional situation or condition of the property. The Board must further find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose or integrity of the Zoning Regulations and map.


The Board concludes that the applicant has met the burden of proof. The existing structure pre-dates the Zoning Regulations and exceeds the allowable lot occupancy, and constitutes an exceptional situation of the property. The strict application of the Zoning Regulations would create a practical different upon the owner in that no addition to the existing structure would be allowed. The Board further concludes that the size and location of the proposed addition will have no adverse impact on neighboring properties and, will not increase the nonconforming aspect of the existing structure.

The Board further concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map. Accordingly it is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Maybelle T. Bennett and Carrie L. Thornhill to grant, Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

9 APR 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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